



IN THE US PTO

Application number: 10/021,656

Applicant: Gary C. Johnson

Appn. Date: 12-12-2001

Art Unit: 3681

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CONTENTS – (2 duplicate packages, response to OA of; 6-28-05)

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(2) ~~Substitute Oath~~ *supplemental*

*del* (3) Cover page of; *11* patents with drawings, *List of 213 differential patents.*

(4) Certificate Of Mailing.

(5) Transmittal Forms..

(6) Claims – 13 and 14(new), 4 pages and 1 cover sheet.

(7) Remarks (6 – pages).

(8) *EXCERPT of: MPEP 716.04, Long-Felt Need and...*



IN THE USPTO

APPN. NUMBER : 10/021,656  
APPN. FILED : 12-12-2001  
APPLICANT : GARY C. JOHNSON  
TITLE : JOHNSON (P.A.C.T.) DIFFERENTIAL  
Examiner : Dirk Wright  
ART UNIT : 3681

NEW MATTER STATEMENT

Statement concerning New Matter:

With this statement I, Gary C. Johnson attest to and verify that there is no  
“New Matter” contained in the enclosed amendments of; 6 - 28 - 05.

The Claims and the Specification, have nothing that can be construed as new  
matter. The detailed description of the “drawing”, sustained the previous drawing  
corrections that I had made. The enclosed detailed description of the “invention”,  
is supported by the completed / corrected drawing and the newest claims; 13 and 14.  
There is nothing mentioned in the claims that isn’t in the drawing (one figure).

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signature Gary C. Johnson  
date 7-16-05



Patents > **2163.07 Amendments to Application Which Are Supported in the Original Description [R-1] - 2100 Patentability**

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*note: for the examine*

## **2163.07 Amendments to Application Which Are Supported in the Original Description [R-1] - 2100 Patentability**

### **2163.07 Amendments to Application Which Are Supported in the Original Description [R-1]**

Amendments to an application which are supported in the original description are NOT new matter.

#### **I. REPHRASING**

*see; Inversely Proportional Rotation*

Mere rephrasing of a passage does not constitute new matter. Accordingly, a rewording of a passage where the same meaning remains intact is permissible. *In re Anderson*, 471 F.2d 1237, 176 USPQ 331 (CCPA 1973). The mere inclusion of dictionary or art recognized definitions known at the time of filing an application would not be considered new matter. If there are multiple definitions for a term and a definition is added to the application, it must be clear from the application as filed that applicant intended a particular definition, in order to avoid an issue of new matter and/or lack of written description. See, e.g., *Schering Corp. v. Amgen, Inc.*, 222 F.3d 1347, 1352-53, 55 USPQ2d 1650, 1654 (Fed. Cir. 2000). In *Schering*, the original disclosure drawn to recombinant DNA molecules utilized the term "leukocyte interferon." Shortly after the filing date, a scientific committee abolished the term in favor of "IFN-(a)," since the latter term more specifically identified a particular polypeptide and since the committee found that leukocytes also produced other types of interferon. The court held that the subsequent amendment to the specification and claims substituting the term "IFN-(a)" for "leukocyte interferon" merely renamed the invention and did not constitute new matter. The claims were limited to cover only the interferon subtype coded for by the inventor's original deposits.

#### **II. OBVIOUS ERRORS**

An amendment to correct an obvious error does not constitute new matter where one skilled in the art would not only recognize the existence of error in the specification, but also the appropriate correction. *In re Oda*, 443 F.2d 1200, 170



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Patents &gt; 716.04 Long-Felt Need and Failure of Others [R-2] - 700 Examination of Applications

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## 716.04 Long-Felt Need and Failure of Others [R-2] - 700 Examination of Applications

### 716.04 Long-Felt Need and Failure of Others [R-2]

#### > I. < THE CLAIMED INVENTION MUST SATISFY A LONG-FELT NEED WHICH WAS RECOGNIZED, PERSISTENT, AND NOT SOLVED BY OTHERS

Establishing long-felt need requires objective evidence that an art recognized problem existed in the art for a long period of time without solution. The relevance of long-felt need and the failure of others to the issue of obviousness depends on several factors. First, the need must have been a persistent one that was recognized by those of ordinary skill in the art. *In re Gershon*, 372 F.2d 535, 539, 152 USPQ 602, 605 (CCPA 1967) ("Since the alleged problem in this case was first recognized by appellants, and others apparently have not yet become aware of its existence, it goes without saying that there could not possibly be any evidence of either a long felt need in the . . . art for a solution to a problem of dubious existence or failure of others skilled in the art who unsuccessfully attempted to solve a problem of which they were not aware."); *Orthopedic Equipment Co., Inc. v. All Orthopedic Appliances, Inc.*, 707 F.2d 1376, 217 USPQ 1281 (Fed. Cir. 1983) (Although the claimed invention achieved the desirable result of reducing inventories, there was no evidence of any prior unsuccessful attempts to do so.).

Second, the long-felt need must not have been satisfied by another before the invention by applicant. *Newell Companies v. Kenney Mfg. Co.*, 864 F.2d 757, 768, 9 USPQ2d 1417, 1426 (Fed. Cir. 1988) (Although at one time there was a long-felt need for a "do-it-yourself" window shade material which was adjustable without the use of tools, a prior art product fulfilled the need by using a scored plastic material which could be torn. "[O]nce another supplied the key element, there was no long-felt need or, indeed, a problem to be solved".)

Third, the invention must in fact satisfy the long-felt need. *In re Cavanagh*, 436 F.2d 491, 168 USPQ 466 (CCPA 1971).

#### > II. < LONG-FELT NEED IS MEASURED FROM THE DATE A PROBLEM IS IDENTIFIED AND EFFORTS ARE MADE TO SOLVE IT

Long-felt need is analyzed as of the date the problem is identified and articulated, and there is evidence of efforts to solve that problem, not as of the date of the most

See List of 213 limited-slip differentials, look also at locking differentials.

note: for the examiner

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*note: for the examiner*

## 706.03 Rejections Not Based on Prior Art - 700 Examination of Applications

### 706.03 Rejections Not Based on Prior Art

The primary object of the examination of an application is to determine whether or not the claims are patentable over the prior art. This consideration should not be relegated to a secondary position while undue emphasis is given to nonprior art or "technical" rejections. Effort in examining should be concentrated on truly essential matters, minimizing or eliminating effort on technical rejections which are not really critical. Where a major technical rejection is proper (e.g., lack of proper disclosure, undue breadth, utility, etc.) such rejection should be stated with a full development of the reasons rather than by a mere conclusion coupled with some stereotyped expression.

Rejections based on nonstatutory subject matter are explained in MPEP § 706.03(a), § 2105, § 2106 - § 2106.02, and § 2107 - § 2107.02. Rejections based on subject matter barred by the Atomic Energy Act are explained in MPEP § 706.03(b). Rejections based on duplicate claims are addressed in MPEP § 706.03(k), and double patenting rejections are addressed in MPEP § 804. See MPEP § 706.03(o) for rejections based on new matter. Foreign filing without a license is discussed in MPEP § 706.03(s). Disclaimer, after interference or public use proceeding, *res judicata*, and reissue are explained in MPEP § 706.03(u) to § 706.03(x). Rejections based on 35 U.S.C. 112 are discussed in MPEP § 2161 - § 2174. IF THE LANGUAGE IN THE FORM PARAGRAPHS IS INCORPORATED IN THE OFFICE ACTION TO STATE THE REJECTION, THERE WILL BE LESS CHANCE OF A MISUNDERSTANDING AS TO THE GROUNDS OF REJECTION.

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Searching 1976 to present...

Results of Search in 1976 to present db for:

"limited slip differentials": 213 patents.

Hits 201 through 213 out of 213

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PAT. NO. Title

- 201 [4,205,735](#) [Means for preventing one wheel spin out of automotive drive wheels](#)
- 202 [4,180,466](#) [Method of lubrication of a controlled slip differential](#)
- 203 [4,154,487](#) [System for controlling the torque transmitted to motor vehicle driving wheels by a differential gear](#)
- 204 [RE29,872](#) [Differential gear mechanism](#)
- 205 [RE29,854](#) [Limited slip differential with negligible bias under light load conditions](#)
- 206 [4,098,313](#) [Traction device for vehicular wheels](#)
- 207 [4,064,632](#) [Tire caliper](#)
- 208 [3,991,091](#) [Organo tin compound](#)
- 209 [3,972,941](#) [Chemical reaction products of polyisobutylene](#)
- 210 [3,972,243](#) [Traction drive with a traction fluid containing gem-structured polar organo compound](#)
- 211 [3,964,346](#) [Limited slip differential including conical pinion and side gears](#)
- 212 [3,958,464](#) [Limited-slip differential](#)
- 213 [3,930,424](#) [Multi-shell limited slip differential](#)

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<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>	Application Number	10 / 021, 658
	Filing Date	12 / 12 / 2001
	First Named Inventor	GARY C. JOHNSON
	Art Unit	3681
	Examiner Name	Dirk Wright
Total Number of Pages in This Submission	Attorney Docket Number	

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC)
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
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<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	<b>Remarks</b> (1) New Matter Statement (2) Substitute Oath (PTO/SB/04) (3) 6 patent drawings (cover page) (4) Certificate of Mailing (5) Transmittal Form (6) Claims 13 and 14, (4 pages) (7) Remarks (6 pages)	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
<b>SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT</b>		
Firm or Individual name	Gary C. Johnson	
Signature	Gary C. Johnson	
Date	7-16-05	

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Signature	Gary C. Johnson	Date 7-16-05

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